The Enterprise of Education
Opportunities and Challenges for India

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Contents

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CHAPTER 1

INTRODUCTION

Education in India has influenced me in significant ways since I began doing work here in 1997. This paper, written in honour of the fifth anniversary of the Liberty Institute, brings together some of my thoughts inspired by the enterprise of education in India during the course of these three-and-a-half years.

First, my work in India has made it even more difficult to find a sound answer to the question: Why should government intervene in education? The assumption that only government intervention will help ensure educational equality, in particular, seems most untenable given the Indian experience. And highly significantly, it seems that Indian private entrepreneurs have found ways of reaching some of the poorest in society, prompted by an inspiring combination of social service and business acumen.

Second, the activities of these entrepreneurs have led me to realise that, in my own country, England, we have much to learn from what is taking place here. Indeed, I have entitled the background 'If India Can, Why Can't We?'. This outlines three areas where India provides an example for the rest of the world of educational private enterprise. Of course, not everything in the India garden is rosy. One educationalist I spoke to recently said poignantly: "Sometimes government is the obstacle..."

In the main section, I highlight some features of the regulatory regime showing how these sentiments seem valid, to this outsider at least. An outsider can observe and make comments, and perhaps shouldn't do more—except to also be aware that he may have got certain facts wrong, or made incorrect assumptions: I apologise in advance for any infelicities of this kind. However, in the concluding chapter I stick my neck out and make a couple of suggestions about possible ways forward here. But these are personal observations, and nothing in the argument presented here depends upon these being accepted as the best or only way forward.

CHAPTER 2

WHY SHOULD GOVERNMENT INTERVENE IN EDUCATION?

In an excellent and entertaining paper (Shah, 1998), Dr Parth Shah asks, if we don't trust government to produce food—the cultivation of land—then why do we trust it to deliver education—the cultivation of the mind? I guess that one of the major reasons most people would come up with is the one given by Dr Maris O'Rourke, former Director of Education at the World Bank. At a recent conference in London, she said, in response to the question about why governments should be involved in education: 'The bottom line is to promote equity'. There were many murmurs of assent in the room.

My experience is that, this is the bottom-line for most people who give this matter any thought. Equity—or one of its popular near-synonyms, equality of opportunity or just plain equality—is the principle reason why government intervention in education is justified. There will be other reasons, but the promotion of equity seems to be the most intuitively obvious and appealing. It's a reason with global appeal. For instance, in one recent North American anti-privatisation book, *No more teachers, no more books*, Heather-Jane Robertson says: 'Giving all children the opportunity to enjoy an equal education, determined not by the wealth of their families but by the resources of their communities, is ... a truly democratic ideal ...a shared public commitment in achieving greater equity is the only reason for public schools to exist.' (Robertson 1998, p. 188).

Similar sentiments could be recorded from almost any country in the world, including India.

I find it a rather touching faith that governments could provide equity in education, given their record to date. As Robertson notes, this is an ideal which 'has never been fully realised' (p. 188). But it's touching to think that she, and others like her, suppose that it ever could be realised.

In the developed world, we see huge disparities in the quality and standard of state schools from middle class to working class areas. Perhaps Robertson and those who think like her would argue that, with 'the right sort of' government intervention, it could all be different.

The problem here is that there is huge literature which points to the problem of 'middle class appropriation of welfare', which suggests that, if education is provided on a universal level, the middle classes will inevitably benefit more than the disadvantaged. For instance, Professor Julian Le Grand of the London School of Economics, argues that:

'There was a time when many people in Britain believed that state provision of such services as health care, education, housing, even transport, free or at heavily subsidised prices, would in itself be a significant contribution to redistributing income to the poorest members of the community. ... These dreams were not fulfilled and it is important to understand the reasons. ... [There is] a large amount of evidence suggesting that most of the services mentioned actually benefit the middle classes at least as much as the poor, and in many cases more than the poor.' (Goodin and Le Grand 1987 p. 91).

Education is one of the 'many cases' where benefit is for the middle classes rather than the poor. The theories he puts forward, building on the evidence from countries such as the UK and Australia, show how the richer groups in society will inevitably 'muscle in' on welfare. Theoretical foundations for such an argument can be found in the writings of the public choice theorists,

including James Buchanan and Gordon Tullock, *The Calculus of Consent* (University of Michigan Press, 1962), and Anthony Downs, *An Economic Theory of Democracy*, (Harper & Row, 1957). The key behind all these arguments is to call into question the traditional assumption that politicians and civil servants are motivated only by the desire to serve the public, rather than with regard to their own self-interest—expressed in terms of seeking to maximise their votes or the size of their bureaucratic empires.

For developing countries, a key proxy indicator for inequity is the proportion of public funds spent on primary schools as opposed to higher education. Higher education is the province of a tiny elite, by and large, in developing countries; the poor generally only have access to primary education. Given this fact, we would assume that a necessary (although of course not sufficient) condition of an equitable system would be one that spent a smaller proportion of public funding on higher education, to reflect the small number of young people who pass through to university, and the bulk of its funds on primary education. The reality is very different. For example, in the 22 countries in Black Africa, 15 per cent of all public expenditure goes on the 2 to 3 per cent of the population who are going on to higher education. In Latin America and the Caribbean, the figure is 17 per cent.

So, as I say, a touching faith that governments can provide equity in education. Nonetheless, I guess that many would argue that, while governments might not have succeeded perfectly, they would much better achieve equity than any 'privatised' alternative—that is, where a greater role in education is taken by the private sector, including philanthropy, agencies of civil society and commercial organisations.

We'll look at this question in the context of the situation in India today, to see whether or not this assumption is tenable. To explore this, let's first examine how government education serves some of the poorest in society, and then contrasts this with findings about private schools. From there we can decide whether or not government intervention in education is the solution to the problem of the poor, and to the problem of educational inequity.

PUBLIC VERSUS PRIVATE EDUCATION FOR THE POOR

So how does government education serve some of the poorest people on the planet, the poor who live in the slums and villages in India? The Indian government recently sponsored the *PROBE Report—the Public Report on Basic Education in India* (The PROBE Team, 1999)—which gives a useful picture of the relative merits of public and private schools for the poor.

The relevant parts of the *PROBE Report* look at primary education in four states—Bihar, Madhya Pradesh, Uttar Pradesh and Rajasthan . In these four states, the fieldwork surveyed a sample of 188 villages, more or less selected as a random sample from all villages in the 300–3,000 population range. Within these 188 villages, there were a total of 195 government schools and 41 private schools. Teachers, parents and children from all of these schools were interviewed. In all, this came to a total of 1,221 households, 2,820 of 6–14 year old children, 650 government and 186 private school teachers.

The picture that the report paints of the government schools is bleak indeed. It describes the 'malfunctioning' in these schools for the poor. The schools suffered from poor physical facilities and high pupil–teacher ratios, but what is most disturbing is the low level of teaching activity. When researchers called unannounced on their random sample, only in 53 per cent of the schools was there any "teaching activity" going on (p. 47).

In fully 33 per cent, the head teacher was absent. But even these figures overestimate what was typically taking place, because this includes only those schools that were actually open when the researchers visited. Moreover, the researchers usually visited in late morning, which was the time of peak school activity. Finally, 'teaching activity' is construed broadly to include children reading aloud or being supervised doing their own written work.

Clearly poor infrastructure and apathetic parents are a problem; the overly-academic curriculum can be paralysing to teachers and students alike; teachers are burdened with excessive paperwork, and there is 'unsupportive' and inadequate management. But the deterioration of teaching standards is not just to do with disempowered teachers:

'The PROBE survey came across many instances where an element of plain negligence was ... involved. These include several cases of irresponsible teachers keeping a school closed or non-functional for months at a time; a school where the teacher was drunk, while only one-sixth of the children enrolled were present; other drunk teachers, some of who expect pupils to bring them *daru* [drink]; a head teacher who asks the children to do domestic chores, including looking after the baby; several cases of teachers sleeping at school; ... a head teacher who comes to school once a week; another head teacher who did not know the name of a single child in the school ...' etc., etc. (p. 63).

Significantly, the low level of teaching activity occurred even in those schools with relatively good infrastructure, teaching aids and pupil–teacher ratio. Even in such schools, 'Inactive teachers were found engaged in a variety of pastimes such as sipping tea, reading comics or eating peanuts, when they were not just sitting idle. Generally, teaching activity has been reduced to a minimum, in terms of both time and effort. And this pattern is not confined to a minority of irresponsible teachers—it has become a way of life in the profession.' (p. 63).

But all of these highlight, for the PROBE researchers, the underlying problem in the government schools: the 'deep lack of accountability in the schooling system' (p. 54).

But is there any alternative but these schools for the poor? Surely the private sector could not do any better than government, given the low level of resources available? To many in my own country, this would be the obvious response. Private education is always considered to be the privilege of the elite, and any suggestion that it might be there to serve the poor would be scoffed at.

Actually, the facts do not support this, not in India nor increasingly in developing countries around the world. For what do the poor do in India when confronted by the inadequacies of government education? Do they sit by, idly and listlessly, dispossessed and disenfranchised—all adjectives used by the liberal elite to describe the poor—and wait until governments or international agencies do something for them? No, some of the most disadvantaged people on this planet vote with their feet, exit the public schools and move their children to private schools, set up by educational entrepreneurs to cater for their needs.

To many in my own country, and perhaps to some here in India too, the existence of such private schools for the poor will be a surprise. When I first worked in India, officials with whom I was in contact were chary of introducing me to any of these schools, although they acknowledged their existence in passing. So I set off alone one day, first by auto-rickshaw, then on foot, into the slum areas behind the Charminar in Hyderabad, Andhra Pradesh, and there they were, almost at every

street corner, down every alley, another private school. Serendipitously, I found one where the head teacher spoke English, was very friendly, and was keen to introduce me to the Federation of Private Schools' Management, under which 500 private schools mainly serving poor communities were grouped.

The entrepreneurial spirit within these schools seemed extremely impressive to me. The schools were all run on commercial principles, not dependent on handouts from state or philanthropy. But this didn't undermine the spirit of dedication within the schools—not for nothing were the leaders of the schools known as 'social workers'. Typical of the comments came from Mr Mohamed Wajid, Director of Peace High School. His mother, when about to retire, had taken him to one side: 'She showed me pictures of the poor people living here, and reminded me that life must not be lived for oneself, life must be lived for others. So I took over the running of her school.'

The Federation's schools charge around $10 and $20 per year. On these fees the schools are self-sufficient, they don't require subsidies from anyone, neither government nor philanthropy. Fees even as low as this are not affordable by everyone, it is true, but typical parents include rickshaw pullers and fruit sellers. Impressively, the great majority of the schools offer a significant number of free places—up to 20 per cent—for the poorest students, allocated on the basis of claims of need checked informally in the community. That is, amongst the disadvantaged people, the poor help subsidise the poorest, bound together, one could say, in their shared status as refugees from a failing state system (for more details, see Tooley, 2000c).

Research, incidentally, gives a strong suggestion that these private schools are, in fact as well as parental perception, actually much better than the state schools. Thus it is not the case, as some fear, simply of unscrupulous businessmen hoodwinking the ignorant. For instance, the *PROBE Report* conceded—rather reluctantly—that the problems it found in the government schools were not found in the private schools for the poor, where there 'was feverish classroom activity' (PROBE Team, 1999, p. 102) and high levels of teacher dedication. The private schools, the report said, were successful because, unlike the government schools, they were more accountable: 'the teachers are accountable to the manager (who can fire them), and, through him or her, to the parents (who can withdraw their children)'. Such accountability was not present in the government schools, and 'this contrast is perceived with crystal clarity by the vast majority of parents' (p. 64).

Other research, too, reveals particularly interesting results concerning these schools. Dr Geeta Kingdon, now of the University of Oxford, explored in detail the question: 'Is the popularity of private fee-charging schools in India to be explained by their superior quality?' (1996a, b). She constructed a stratified random sample of three types of schools: private unaided (PUA), private aided (PA) and government (G) schools, in urban Lucknow, in the state of Uttar Pradesh. It must be noted that the private-aided schools seem virtually indistinguishable from government schools, receiving a block grant for more or less all of their income, irrespective of student numbers or performance. They are also subject to severe teacher unionisation and government regulation. The private unaided schools are the category worth considering as genuine private schools.

Kingdon collected data from 902 students of class-eight (13–14 year-olds), in 30 schools across the three sectors, on:

- Student achievement measured using adaptations of standardised tests of numeracy and literacy
- Ability of students using Ravens Progressive Matrices
- Details of personal, parental, household characteristics of students.
- School income and expenses, teaching materials and other facilities

In order to control for social and personal factors, Kingdon's method was then to seek to predict the score for a student who has the average characteristics of a public school pupil if she were to attend a private school, and vice versa. This predicted score was then compared with the actual public school average achievement figure. Table 1 gives these results.

Table 1

		G	**PA**	**PUA**
Maths	Raw	8.97	8.36	17.09
	Standardised	11.38	10.09	12.80
Reading	Raw	9.77	10.86	16.85
	Standardised	13.78	13.73	13.83

On the raw scores, the private unaided students scored almost twice as highly as the government and private aided schools, in both maths and reading. However, when these figures were corrected to take into account personal endowments and selectivity of pupils, this superiority decreased somewhat—although it was still significant. For instance, the private unaided schools, after correction, are still 27 per cent more effective at teaching maths than the other schools. However, Kingdon also investigated the cost-effectiveness of the schools, and the findings here are most revealing. Combining the results of standardised achievement in mathematics and language, with per pupil expenditures, gives the result in Table 2:

Table 2

	G	**PA**	**PUA**
Cost per student (INR).	2008	1827	999
Predicted math score	11.38	10.09	12.80
Cost per math point	176	181	78
Predicted reading score	13.78	13.73	13.82
Cost per reading point	146	133	72
Predicted total score	25.16	23.82	26.62
Cost per achievement point	80	77	38

As before, the predicted total scores are higher in the private unaided schools. But the costs per student are substantially lower—less than half the costs of the government schools. This means that the 'cost per achievement point' in the private unaided schools is less than half that in the government schools (38 as compared with 80). This is a dramatic result. In other words, the private unaided schools in India are not only better than government and government-aided schools in terms of student scores, but they are much, much cheaper too.

Of course, education is more than scores in maths and science. Coupled with the evidence from the *PROBE Report* in terms of teacher attention and dedication in schools for the poor, this evidence would seem to suggest a very strong case could be made that the private schools in India are much better at serving their clients than government schools, and that is as true for schools for the poor as for any other schools.

Such a finding, incidentally, is replicated from across many other developing countries. For instance, Jimenez et al. (1988) found that in Thailand, using advanced statistical techniques to control for potential bias from social background, private schools are, in general, "more effective and less costly" than their public counterparts at improving the mathematical performance of students. The researchers extended this work and also showed that, based on studies comparing private and public education in Colombia, the Dominican Republic, the Philippines, Tanzania and Thailand, that private school students again, in general, outperformed the public school students in mathematics and language. This result, again, held true even when controlling for the potential bias of social class. And again, there was 'preliminary evidence' to suggest that the unit costs in private schools were lower than in the public schools (Jimenez et al., 1991, p. 205).

In terms of public and private schools operating under a state funded voucher scheme the evidence from Chile is also unequivocal. Chile brought in a system of vouchers in 1980, which allowed for state subsidies to be spent at private schools or at the local municipal schools. The evidence shows that the subsidised private schools were more efficient than the municipal schools—employing less teachers per pupil and having lower unit costs. Yet they achieved higher test results in mathematics and Spanish. This result holds even when the test scores are adjusted to control for socio-economic status (Larrañaga, 1997).

A SOLUTION TO THE PROBLEM OF EDUCATIONAL INEQUALITY

Given this picture of private schools for the poor in India, how does this impact on the argument about state intervention needed for equality? When people speak of equality, what they have in mind, first and foremost, is concern for the poorest people—indeed there are many social philosophers now who argue that educational equality means ensuring that the poorest have an adequate level of education (see Tooley, 1996 for discussion). So what we have seen is that for poor people in India, state education is perceived to be totally inadequate, letting them down, an option to use only if there is absolutely no alternative. But there usually is an alternative, and provided by private educational entrepreneurs—if the low fees can be afforded.

What this suggests to me is that, if we are concerned with promoting equity, then one of the most fruitful ways forward is to seek to nurture and encourage the private schools that already exist, and to devise methods that allow more parents to use them for their children. It is not state intervention that is needed in education for the promotion of equity, but an approach which allows as many families as possible to benefit from the private alternative.

I know some would disagree with these sentiments. Indeed I have talked to international agency personnel recently, for instance, who disparage such suggestions by pointing out that not all of the poor will be helped through these means. For currently, only the most aware and concerned of the poor are able to send their children to private schools, and even with other measures to improve access—such as a private voucher scheme discussed below—not all of the poor can be helped. And if some will be left behind, therefore we mustn't countenance lifting any family in this way. I must admit to finding such a response very hard to stomach. I think that if some of the poorest members of society can be helped by such a proposal, then we should follow it. I am also not convinced that anyone would adopt the attitude described here for his or her own family. It smacks of seeing the poor as a homogenous mass, of patronising them in this way. If there is a spirit of educational self-help in communities, let's help it grow and develop, not stamp it out in the aim of a uniform egalitarianism, where all must suffer together.

Perhaps surprisingly, too, given the positive picture painted of the private sector vis-à-vis the government sector, the PROBE team also balked at recommending a greater role for the private sector in primary and secondary schooling. Instead, they wanted us to learn from what made the private schools better, and seek to improve the public schools by introducing the same measures. This seems to miss the point, that the private schools are better because they have the incentives and accountability of the private sector, and that it is impossible simply to replicate these in the government schools. However, their specific objections to a greater role for private education may be worth noting. First, the team admits that their report has painted a 'relatively rosy' picture of the private sector, where 'accountability to the parents' leads to 'a high level of classroom activity ... better utilisation of facilities, greater attention to young children, responsiveness of teachers to parental complaints.' (p. 105). But there are four reasons why such findings do not convince them that a greater role for the private sector is desirable or required:

- Private schools are out of reach of the vast majority of poor parents.
- Private schools 'often take advantage of the vulnerability of parents': this is because many 'parents have little idea of what goes on in the classroom. They know that teachers turn up on time, keep the children busy, and maintain discipline, and in all these respects private schools strike them as superior to government schools. Even an inept teacher, however, can maintain these appearances without imparting much education to the children.' (p. 105).
- Private teachers will 'teach to the test': They have 'little reason to promote the personal development of the children, to treat them with sensitivity, or to impart a sense of values. Their overwhelming objective is to cram the heads of the pupils, so that they may pass the relevant tests and examinations.' (p. 105).
- The expansion of private schools will undermine state education: 'this carries a real danger of undermining the government schooling system... [which] may lead to a very divisive pattern of schooling opportunities, with better-off parents sending their children to private schools while poorer parents are left to cope with non-functional government schools.' (p. 106).

The second and third of these are criticisms of the quality of private education. They are not based on the evidence in the *PROBE Report*, and would require further research to substantiate. However, my own research suggests that the quality of these private schools is likely to be much higher than is claimed here, particularly in terms of enhancing educational values of the schools. In any case, they note that the problem of 'teaching-to-the-test' 'applies in government schools too', but counter this by suggesting that 'at least in the latter case there is a possibility of stimulating the interest of teachers in alternative teaching principles and practices.' Again, my own research (Tooley, 1999 and 2000b) suggests the opposite, that it is in the private schools that most interest will be had in innovative teaching methods, not in the government schools.

The first and fourth objections are not objections to private education per se, but objections to the impact that private education will have on the state system. But if state education is as bad as it is described in the *PROBE Report*, and private schools so significantly better, as they also concur, then why do they worry about the demise of state education, provided that mechanisms are introduced that will allow the poorest parents to access the superior private educational opportunities?

How could this be done? One method is precisely the one the private schools for the poor are already doing, as noted above, of providing free places for the poorer members of the community. Such a mechanism could be formalised and extended through the creation of a private voucher scheme, funded by philanthropists in India and overseas, to enable many more children to attend

the best of these schools, even if they currently cannot afford the fees. And one way of ensuring that such philanthropy was only available to be used in schools that met certain standards would be to encourage private school associations—such as the Federation of Private Schools' Management in Hyderabad—to more or less formally 'accredit' or register schools which satisfy certain quality conditions, offering support to them in teacher training, curriculum, pedagogical and business development. Such 'self-regulation' procedures could also help with presenting to government the need for less onerous state regulation.

The argument for state intervention in education on the grounds of promoting equality do not seem to imply in India. What is needed instead is the nurturing of the private education sector, which is already stepping in to help some of the poorest in society, and ensuring that it is accessible to a broader spectrum of the poor. Anything else would seem, on the basis of the available evidence, to be titling at windmills.

CHAPTER 3

IF INDIA CAN, WHY CAN'T WE?...

Too often, overseas consultants in India distinguish themselves by the way they find it fit to comment only on the negative things here, such as the educational problems of the poor, how we in the West can help, how you in India need our help, etc., etc., *ad nauseum*. However, my own reaction to India has been slightly different. The examples given above of the way entrepreneurs have created opportunities for the poor, of educational self-help, have led me to believe that there are considerable lessons people in my own country, England, could and should be learning from India. Indeed, I have recently written an outline for a paper entitled 'If India Can, Why Can't We?' which will exhort my countrymen to take cognisance of what is happening here.

The title of the paper alludes to the 1980 NBC News "White Paper", 'If Japan Can ... Why Can't We?'. This was the programme that apparently sent shock waves reverberating around American corporations, revealing how the Japanese captured world auto markets by, amongst other things, following Deming's quality philosophy. I don't want to make too much of the connection, especially after having watched the programme recently and been less than impressed by the sedate, if not soporific, pace, at which it elaborated rather elementary points. But there are some parallels worth nothing, in passing: In 1980, the last people the Americans thought they needed to turn to were the Japanese. Similarly, people in the UK have been somewhat taken aback by my observation that we have much to learn about education from India. Indeed, when I wrote a piece in the *Times Educational Supplement* a couple of years ago on the theme of the lessons from developing countries in general, I found my article accompanied by a photograph of a very poor school in Bihar, accompanied by the caption: 'Education in India has a lot to teach the British, according to Professor Tooley' (*Times Education Supplement*, May 7th 1999, p. 21)—the implication being, obvious to any British reader, that poor Tooley is somewhat misguided in thinking we have anything to learn from countries which can't even afford glass for the windows and where children don't have shoes on their feet.

However, the caption encapsulates what I do believe: in India, important truths about the enterprise of education are being practised every day. Sometimes from within the fissures of a crumbling state education system, a confident and innovative education industry is blossoming. It is the Indian entrepreneurial spirit in education that should give the British pause for reflection—particularly in the light of recent estimates of the size of the global education industry being in the region of $5 trillion annually.

Here are three lessons from India that I think worth noting:

Lesson 1: If state schools aren't working, "exit" is a viable option

In England, if a school is failing in the West End of Newcastle or the East End of London, the reaction is that this requires us to parachute in the government hit-squads, pour in government money, proliferate government supervision ... and pray that hapless parents get an improved deal for their children. But the growing catalogue of schools that have been 'fresh-started', only to be given up on in despair of ever really improving, indicates that this may not be the best way forward.

Whatever happened to the spirit of self-help? As I've noted already, it's alive and well in the slums and villages of India. The stories of educational entrepreneurs, prompted by community concern as

well as business acumen tells me that what is lacking in deprived neighbourhoods in England is not a policy vacuum that needs to be filled by more government money and intervention. No, instead there is an entrepreneurial deficit, and a crushing dependency culture. That cannot be mended by politicians: indeed, their activities that are likely to crowd out any last traces of enterprise. Perhaps the lesson from India is that what is needed in England is the creation of a chain of 'budget-priced' private schools, to allow those trapped in mediocre government 'sink' schools to escape. The more government intervenes, the more it crowds out this spirit of self-help.

Lesson 2: The delivery of education should be seen as an industry, not an office of government.
The Indian software engineering revolution is a remarkable phenomenon. Of all Initial Public Offerings (IPOs) in Silicon Valley in the USA, 40 per cent have an Indian founder. Nearly a fifth of all R&D (research and development) staff in American knowledge companies are Indian (*Business World*, 17th January 2000). But within India itself, the software industry has grown at an extraordinary rate—from around $150 million in 1992 to $3.9 billion now, or at a compounded annual growth rate (CAGR) of 61 per cent. The global growth rate in the market is predicted to be about 80 per cent per year, and India is exceptionally well-placed to share in a large part of the growing market—India is second only to the USA in the number of Microsoft Certified Professionals, for example. And although the industry began by contracting low-end business, it is now at the high end of the industry, with US customers buying 61 per cent of the software that Indian companies exported. All of the major global telecom companies have opened R&D centres in India, (*Business World*, 17th January 2000, and *Business Line*, 11th June 1998).

What explains this phenomenal success story? Some might point to innate Indian mathematical superiority, cheap labour, and, at a push, Indian government investment in elite IT institutions. But there are plenty of other places with the same combination of cheap labour and government investment in elitist institutions, which come nowhere near the success of India. The overlooked factor for success lies again in the entrepreneurship in the Indian education and training market.

The IT education and training market in India is fast-growing and intensely competitive. It is estimated that there are over 700,000 students in more than 3,000 training centres (*Business Line*, 1st July 1999). But two companies stand out in the way they have redefined the delivery of educational opportunities as an industry—NIIT and Aptech—who together share just over 70 per cent of this market, estimated at roughly Rs. 1.1 billion (about $20 million).

Take NIIT. It has 40 wholly owned centres in the metropolitan areas, but has franchised its highly innovative model to 1,000 centres across the whole of India. And, a nice twist on global capitalist imperialism, it has expanded its operations into the USA and UK, as well as having numerous franchises in Asia and Africa. Notably, NIIT realises the power of brand-names in the education industry. Its brand is so successful that, just as we say we're 'doing the Hoovering', when we mean we're vacuuming, so students in India say that they're 'doing an NIIT' when they mean they're doing a—any—computer course. And not only do employers advertise for "a master's student or a GNIIT"—a graduate of NIIT—but I've also found parents advertising in the matrimonial pages of the *Times of India* for a GNIIT as a suitable spouse for their son or daughter.

What was to become NIIT was conceived in 1979 by Rajendra S. Pawar, now Vice Chairman and Managing Director, then a development officer for a computer company in Bombay. He was aware both of the need for trained computer staff and the unsatisfactory nature of computer education in Indian universities. With two colleagues he set up a company, which opened its first Computer Education Centre in a leased room in an office building in downtown Bombay, in 1982. In the same year it opened a second centre in Delhi. In 1993, they were listed on the Bombay and Delhi

(National) Stock Exchanges. In February 1996, they opened their first education centre outside of India, in Kathmandu, Nepal, with their international office now expanded to 25 countries.

Since its inception, NIIT has become one of the most outstanding and innovative education companies in the world. With 3,600 employees worldwide, NIIT has become one of only a handful of ISO 9001 education companies, aware that a detailed focus on service, inputs and outputs in a date-rich environment can make it stand out, and enable its franchises to live up to its brand name.

Since its beginnings, too, in cramped accommodation with few available teachers, it has been aware of the imperative to conserve space, provide efficient, value-for-money education to economically-stretched students, and to efficiently use whatever teaching time was available. To this end, it has developed an R&D department to develop teaching methods which capitalise on effective teacher contact time, carefully utilise space and learn from the most effective pedagogy worldwide. One of its guiding principles is: 'If we or a competitor can teach this course in two weeks, how can we teach it in one week?' Another is 'If it takes us or our competitors six months to develop this course, how can we develop a similar course in three months?' They have developed an educational model which utilises three types of room—classroom, mindroom, and machine room—from 7 am to 9 pm, enabling a centre with only 30 computers to accommodate 1,260 students per day.

But NIIT's R&D isn't all so prosaic. Director of Research, Dr Sugata Mitra, experienced what many proud parents feel when he first observed his children on the family computer: 'My children have easily taught themselves to access the Internet. They must be brilliant!'. Just like their father, perhaps. But then he had one of those Gestalt switches: 'Perhaps there's nothing special about my children, but there's something particularly easy about accessing the Internet?' Usefully, the NIIT headquarters borders the slum area of Kalkaji, where there are many children of all ages who don't attend school. Dr Mitra wondered: can these children, unschooled and largely illiterate, also learn to access the Internet without any tuition?

His research team constructed an 'Internet kiosk' in the NIIT boundary wall, with the monitor visible through a glass plate built into the wall. The PC itself was on the other side of the brick enclosure, which was connected to the NIIT's internal network and to the Internet through a dedicated connection. There was a touch pad instead of a mouse, later modified to an unbreakable joystick. The kiosk was made operational, without any announcement or instruction in January 1999. A video camera recorded activity near the kiosk and activity was monitored from another PC on the network.

To cut a long story short, within weeks, the children quickly learned to become 'Internet literate'. The children visited websites—completely without any instruction. The Disney Web site became especially popular, with children playing computer games, and navigating stories and cartoons.

Those literate in Hindi also learnt to access news, horoscopes and short story sites. Indeed it seemed that these underprivileged children, without any planned instructional intervention, could achieve a remarkable level of computer literacy. Language, technical skills and education, it seemed, are not serious barriers to accessing the Internet, providing that simple resources can be made available. And that's Dr Mitra's next venture: he is embarked on rolling out the idea commercially, to rural and slum areas, harnessing the power of the private sector to reach the poorest through modern technology.

Again, the lessons for England seem self-evident, and concern the role of government and educational entrepreneurship. The Blair government is keen to ensure that every person in a disadvantaged community is able to become IT literate, and has made available £252 million to establish around 700 IT Learning Centres across England. £230 million has been made available for teacher training in ICT, funded by the New Opportunities Fund. But again: it's all government activity. Perhaps so much government investment is only serving to crowd out private entrepreneurs, or make the existing companies flabby and dependent on bidding for government contracts. Why is there no British equivalent of NIIT, franchising its expertise in every town in the country, its brand-name as recognised as Gap or Coca Cola? Why is there no NIIT developing new and exciting ways of reaching the most disadvantaged in our society? Perhaps there would be, if only government would stop thinking that it has to do everything.

Lesson 3: To expand higher education, don't crowd out commercial student loan schemes.
Higher education in England is at a critical juncture. Morale amongst academics is perilously low, in part brought down by the burden of bureaucratic, government-imposed quality control procedures. Students, too, feel that they are getting a raw deal, bemused that most do not now have grants and free tuition (even though these are still very heavily subsidised, and loans are far below market rates). Most of all, higher education cannot continue to be funded at present rates. So what is the solution?

Actually, the Conservative Party has come up with a rather radical proposal: they intend to create big endowments (up to £1 billion) for selected universities, and then set them free from government recurrent funding. Initially, they intended to finance these endowments through proceeds from one-off asset sales, such as the recent auction of the new mobile phone bandwidths. Now they have come up with something even more exciting, that the first few endowments will be funded through sale of the student loan book. This is somewhat gratifying, as I proposed privatising the student loan book using the method of 'securitisation', a technique widely used by credit card companies, back in 1997 (Seville and Tooley, 1997). The Conservatives' recent proposal puts a nice twist on this, for student debt can then be used to help fund continuing improvement in the higher education system.

But, while welcoming these proposals, it still might give a misleading impression about the role of government in all this. Privatising the Student Loan Company debt is a good thing, I think. But is it only through government that we can create student loan programmes? Or again, does this show a lack of imagination and entrepreneurship in the British approach to education?

Again, the lesson from India tells us that there can be non-government alternatives for student funding. NIIT, for instance, has linked up with Citibank to give the opportunity for all its advanced students to take out a seven-year loan towards repayment of fees. The Citibank loan covers up to 90 per cent of the course fees. Significantly, the loan does not require any collateral—so it is open to students from any socio-economic background, provided that they can pass the entrance test. The theory behind this is that any student who gains NIIT advanced qualifications will be more than able to repay the loan, given the demand for young people with Internet-related skills. Moreover, student loyalty towards NIIT will ensure that there are few defaulters, if any.

But the NIIT/Citibank scheme is far from unique. In my research I found dozens of other student loan schemes in India offered by commercial banks. Typical loans include the ones offered by the State Bank of Mysore, the Central Bank of India, GE Countrywide and the Housing Development Finance Corporation. Typically these are eligible to any student pursuing university-level courses in a range of subjects, or at a specified range of establishments. Significantly, the loans cover up to

90 per cent of all the costs of higher education, including tuition fees, maintenance, books and equipment and travel—indeed the amount is raised to 100 per cent for specified disadvantaged groups. And, like the NIIT scheme, sometimes banks don't require collateral, or even in the GE Countrywide scheme, a guarantor, if the loans are disbursed in conjunction with a sympathetic college—relying on the principle again that loyalty towards the college will militate against defaulters. There is also the Allahabad Bank, which offers all of the above, but which boasts its unique 'education loans on-line': the loan application can be submitted and sanctioned on-line within two days of submission.

Again the lesson is clear: in England we've been far too caught up in the socialist dogma that believes that government intervention is the only way to fund access to higher education. This isn't the lesson I take from India, where a thousand flowers are blooming in the student finance market.

Again it may be that the more government funds, the more it crowds out possible private sector alternatives. And because in India those students with commercial bank loans are ultimately paying for them themselves, the pressure is on them to behave in ways different from their British counterparts, many of whom view university life as a pleasantly congenial, subsidised alternative to work, a way of prolonging the joys of youthful irresponsibility at someone else's expense: The University of Oxford's North Report showed that arts students' self-reports of the amount of work they did (for this reason likely to be over– rather than under-estimations) averaged only about 20 hours per week! (*Sunday Telegraph*, 1st February 1998).

In summary, the education system in England is not giving a great service, particularly to many of the most disadvantaged groups. Most look only to government to rectify this. Educationally-concerned people see it as their duty to lobby government, or campaign to get the right party in power. Only then can we get improvements in inner-city schools, or move to the cutting edge of the information communications revolution, or properly fund higher education. I suggest that it is this attitude that might be a fundamental part of the problem. It is this attitude that might be crowding out genuine market solutions to these problems, waiting to be discovered. In India, while these same attitudes do prevail in certain circles, of course, there is a strong entrepreneurial spirit in education blossoming in a way that it is not in England. And it is my belief that we have much to learn from these lessons from India—although as Deming would have put it, 'We don't have to do this, survival is not compulsory'.

CHAPTER 4

"SOMETIMES GOVERNMENT IS THE OBSTACLE..."

Exactly a year ago, I had the privilege of conducting a study for the International Finance Corporation, (IFC)—the private finance arm of the World Bank—on the regulatory and investment climate for education in Andhra Pradesh—and hence, of course, looking at some of the regulations for all of India.

During the course of my interviews with educators across the state, one contrast still sticks vividly in my mind. When interviewing top academics engaged in setting up prestigious institutions of higher education in Hyderabad, there was no mention of any regulatory difficulties encountered.

Indeed, however hard I would try to solicit comments about regulatory problems, I always met with the same shrug and urbane wave of the hand. For the prestigious institutions, government regulation was no particular obstacle. At worst, if hassled at all by any regulation or government official, the academics knew that they could simply get on the telephone to the minister and everything would be smoothly resolved. The contrast with the way that those educational entrepreneurs serving the poor saw government regulation could not be more complete. Despite often being seen as social workers serving particularly deprived communities, they felt completely bogged down by regulation, and saw it as a very real and ever present threat to their livelihoods. To them, government was the obstacle to be faced all the time. Often bribing low-ranking officials was the only way to make any progress at all.

This section aims to briefly give a flavour of two sets of regulations impinging on some of the educational entrepreneurs already discussed above. At all times when perusing this snapshot, it must be borne that, while many well-connected colleges and schools simply ignore regulation as and when it suits them, the rules impinge most particularly on educationalists struggling to provide for the poorest in society.

REGULATIONS IMPINGING UPON PRIVATE SCHOOLS FOR THE POOR

First, what are the regulations that impinge upon the private schools for the poor in Andhra Pradesh? The major problem concerns government recognition. Only 40 per cent of the schools coming under the Federation of Private Schools' Management are recognised by government. The restrictions, to be discussed in a moment, were simply too great to satisfy. This led to two major perceived problems for parents. First, very importantly, only at government-recognised schools can students sit their school (Grade VII and X) examinations. However, the schools in the Federation (and more widely) have found a neat way around this—there is nothing in the statutory regulations to stop schools which are unrecognised from sending their students to a recognised school as 'private candidates' for the purpose of taking examinations. This loophole is used to great effect within the Federation, where the recognised schools provide this function for their unrecognised neighbours.

However, this process costs more for parents. To take an examination in their own school costs Rs 50 per entry, but as a 'private' candidate, they have to pay five times this, Rs 250 per entry (for some of the schools this is equivalent to almost the annual student fee). This is a major

disadvantage for parents. The second disadvantage is that students have 'private' candidate stamped on their certificate, not the name of a school. Not only do some high schools, colleges and universities look down on this status, and prefer candidates with a named—especially a named known—school, it also is an inconvenience, as most high schools or colleges will ask for other proof of residence and identity when a student applies for entry, whereas with an ordinary certificate this is not required.

Some of the schools thought that they did satisfy all the requirements of recognition, but mysteriously still had not secured it. To make matters worse no one is really sure what the problems were. The suspicion is that the applications have simply got lost inside the labyrinth of files piled high within the ministry of education. For other of the schools, three conditions in particular were described as onerous and difficult to meet:

- To be recognised, the statutory rules state that a school must have a playground of 1000 square yards—clearly beyond the reach of most such poor schools in the slums, given availability and cost of land.
- There is also a requirement for government-trained teachers within the school. But teacher training colleges only offer vernacular-medium teaching certificates for primary schools, but most of the private schools are English-medium. So although there are no state offered qualifications for teachers to take, the government refuses to recognise schools which do not have state-qualified teachers! Catch 22, I think.
- To be recognised, the society must deposit a 'corpus' or endowment fund of Rs 25,000 or Rs 50,000 (depending on level of school, i.e., up to $1,200) in a stipulated bank account. In itself, this is extremely hard to find for many schools—for many of the schools this was greater than their annual surplus. But also, apparently officials are confused about whether or not this sum can be used by the school. The confusion probably arises because the 1987 Act brought in a category of unaided private schools called registered schools, for which this sum of money cannot be touched, whereas for recognised status (which is what the schools are seeking) the law says that it can be. However, perhaps because of the confusing nature of these rules to the officials concerned, several of the schools have had bureaucrats prohibiting access to this money, and this is a further deterrent to those schools who might otherwise seek recognition.

These are just some of the rules and regulations that the schools have to meet. If interested, the extremely detailed requirements of the Andhra Pradesh Educational Institutions (Establishment, Recognition, Administration and Control of Schools Under Private Management) Rules, 1993, could be turned to, where the reader will discover fastidious details, everything from the physical requirements of the school, through the curriculum, to the teacher–pupil ratio and staffing conditions of service. To give a flavour, and to show that I am not exaggerating, here are just some of the requirements that schools seeking recognition must satisfy, concerning staffing:

- The teacher-pupil ratio must not exceed 1:40, except in pre-primary, where it must not exceed 1:20.
- The educational agency must reinstate a teaching or non-teaching staff member if instructed to do so by the ministry of education
- The educational agency must adopt the Teachers' Provident Fund, or similar pension scheme, as prescribed by the Government.
- The ministry can transfer staff from a private school which is closing down, or if staff are removed, to another 'needy Private aided or Local Body School within the district'.
- Staff must be appointed 'as per the staffing patterns prescribed by Government from time to time'.

- All staff must have the qualifications laid out by government.
- All teaching and non-teaching staff have to be recruited through the Staff Selection Committee, constituted by the educational agency in conformity with the rules given by government. These include that all posts have to be advertised 'in at least two Newspapers having large circulation of which one shall be in Telegu', and that all posts in private educational institutions must have the prescribed number of scheduled castes/tribes (SC/STs), as set out in the "communal rotation roster". The composition of the Staff Selection Committee must consist of:
  - § The president of the educational agency or nominee
  - § Correspondent/secretary/manager of the institution
  - § Headmaster/principal of the institution
  - § Two subject experts, selected by the educational agency from a panel approved by the District Educational Officer, one of whom must be the headmaster of a recognised school
  - § For aided schools, an officer of the education department not below the rank of deputy educational officer nominated by the District Educational Officer.
- Taking into account all of these factors, it is further specified that all teaching and non-teaching appointments have to be made with the approval of the competent authority.
- 'Approximately 50 per cent of the total revenue collection as fee from students shall be earmarked for payment of regular salaries to the staff and 15 per cent of the revenue shall be earmarked for providing various benefits like Teacher's Provident Fund, Group Insurance etc.'

And so on. Importantly, all of these regulations 'are subject to inspection and auditing', by the 'competent authority' at the Ministry of Education. With such a plethora of regulations to satisfy, no school is likely to be able to satisfy them all. Such a situation is only a recipe for growing corruption, further undermining the valued role these educational entrepreneurs are playing in civil society.

REGULATIONS IMPINGING UPON TECHNICAL EDUCATION

The discussion earlier of the computer education and training giant, NIIT, may have led some readers to conclude that the regulatory environment for technical education must be much more conducive, otherwise such companies could not have expanded and developed as they have done. However, such a sanguine conclusion would be the wrong one to draw. In fact, NIIT's qualifications are not recognised by government! Indeed, a senior government bureaucrat quite candidly told me that when an overseas official phones to enquire about the status of NIIT certificates, he tells him that such certificates are not worth the paper they are written on. This isn't, as we noted, the view of the market, however.

The body concerned with regulating computer education is the AICTE (All-India Council for Technical Education). Clause 10(i), Chapter III of the 1987 AICTE Act provides that the Council 'shall lay down norms and standards for courses, curricula, physical and instructional facilities, staff pattern, staff qualifications, quality instructions, assessment and examinations.'

One major problem is that the Supreme Court Unnikrishnan Case (1992) stipulated—or at least has been interpreted as stipulating—that no educational institution shall be operated for profit. Hence, one of the AICTE's main stipulations is that no for-profit institution can be accredited. This immediately rules out any possibility for NIIT or similar companies to achieve accreditation.

But that is not the only problem. The AICTE publishes an enormous 325-page tome, Norms and Standards, at frequent intervals, which sets out all the detailed regulations which are required by

any technical college or institution. Apparently, these norms are currently being revised to make them more stringent, taking into account recent expert comment that they are too lax.

For a college or other technical institution, such as NIIT, the norms cover all possible aspects of its work, from staff qualifications and pay scales, fee structures, but especially land and building requirements. For instance, (and bear in mind that not meeting the land norms is one of the three main reasons for rejecting an application), all engineering and technology colleges must have

- Student activity centre—for 'indoor games, gymnasium, dramatics and alumni centre', allowing 0.25 sq. m. per student
- Playing field—'so that the students can have adequate participation in games and sports for healthy and constructive activities within the campus'. This must include 'athletics-track, cricket field, a football field, a hockey field, a volleyball court, a basket ball court, four badminton courts and a tennis court'.
- All told, the land area must be 25,000 sq.m.
- A parking stand for cycles and scooters—an open or covered area, at the rate of 15 per cent of the plinth area of the college building .

Of course each of these may be desirable, but no account is taken, for example, of other amenities which might be available to students to take part in these activities—even those which could be made through contractual relationships with the college—or the desire of students for them. All have to be provided by any college which wishes to have recognition for the AICTE. In a time of desired expansion of higher education, it is not clear why these leisure land requirements are enough to deem the majority of applications unfit. It is also clear that companies like NIIT would be deemed unfit by these requirements alone.

But the regulations don't stop there. For instance, for the Norms and Standards: in Computer Education (MCA) (Masters in Computer Applications), the following are among the requirements:

- The course must be for three years, divided into 6 semesters, each of 15 weeks duration (i.e., 30 weeks per year), with a targeted total of 180 working days excluding examinations (p. 44). No flexibility in this is allowed—so for example, the type of 'fast-track' curriculum that new institutions are seeking (where a student works for more than these 30 weeks per year) is ruled out as illegal.
- Courses in MCA "will not have substantial relevance to the academic background of the students and hence the entire programme has to be built up from the basics" (p. 44). Again, this rules out educational innovations, giving the flexibility of a differentiated curriculum, cutting out parts that students know already. All students must plod through the same material, regardless of their need.
- Admission qualifications: Bachelor's degree of minimum three years' duration in any discipline, but with mathematical knowledge of 10+2 level. Admission is through merit, on admission tests conducted by the State Government, or autonomous institution or university. This test must test candidates' mathematical ability and logical reasoning.
- Computing time—a student of MCA requires four hours of terminal time every day. The AICTE then calculates that, with an annual intake of 30 students, the total hours of terminal time required everyday is 360 hours. A computer laboratory, they say, may be open for 14 hours, but will only have 12 hours available for work—because of classes and tutorials (My question is: why do these have to take place in the computer lab?)—so the minimum statutory requirement is for 360/12 = 30. They add 10 because of the possibility of breakdowns. These requirements have been shown by NIIT and Aptech to be irrelevant—computers can be used much more efficiently than this.

- Computers required are: four computers with 486DX, 32 Mb RAM, 500 Mb HDD, 5.25 inch/3.5 inch FDD, etc.; 36 DOS and Windows based workstations with 386DX/486SX, 8 Mb RAM, 200 Mb HDD, etc. Software required is DOS 6.2 or above, Windows 3.1 or above, etc. This shows the perils of specifying in detail such requirements—which are already out of date, even though these are the current norms.
- Class size should be 30 per teacher for theory, tutorial and lab practical. But why must the class size be the same for each of these? Again, NIIT has found an innovative way of using different sized classes for different functions.
- Job descriptions, qualifications and pay scales are 'as prescribed by AICTE from time to time'.

Again: and so on! It is not clear that all of these are particularly relevant to the provision of high quality technical education, nor that they should rule out companies which want to make innovative provision from offering technical education to the public. As noted, NIIT's great success owes much to being able to experiment with many of these factors, using research and development to find out just what are the most efficient and effective ways of teaching and learning. It is also important to bear in mind when reading this that the AICTE's requirements are just one of the levels of regulation that any college has to meet. Colleges also have to abide by their affiliating universities' regulations, those of the State, as well as those pertaining to important Case Law for professional colleges. With all these levels of regulation it is a wonder that any college can get recognised. And indeed anecdotal evidence suggests that, just as in the case of the private schools for the poor, probably the only sure route to getting recognition is to resort to the bribing of lower officials. This doesn't seem to be a desirable state of affairs for education in a country poised to be at the cutting edge of the technological revolution.

CHAPTER 5

CONCLUSIONS: WHAT IS TO BE DONE?

An outsider can observe what is going on, and point to difficulties without too much of a problem (aware that he might have made incorrect assumptions and factual errors); it is with much more trepidation that I consider putting forward any suggestions. Nevertheless, I have been asked for some comments along these lines, and in these final paragraphs, I put forward—tentatively and with humility—a couple of suggestions which might help education to develop in India, to the benefit of all within the society. But if these suggestions are not to the reader's taste, I hope that it will be accepted that nothing in the preceding argument is made void by them.

SUGGESTION 1: REMOVE REGULATORY ROADBLOCKS

The first suggestion is simple. All the roadblocks currently within the system, which obstruct the flourishing of private education alternatives for the poor in particular, need to be removed. The aim of the regulatory environment should be not obstruction, but facilitation. On one level this requires a comprehensive review of all the regulations that currently impinge upon private education, at national and state level. Such a review might point to ways around some of the regulations highlighted above, such as the land, endowment funds and teacher training requirements, as already mentioned.

Indeed, this approach seems to be in line with the recently published Recommendations of the Prime Minister's Economic Advisory Council (2001). The report notes that:

"The entire resources allocated for education do not have to be spent by the Government in directly running schools. Private schools can play a very important role in achieving our targets. To facilitate private initiatives, education should be liberalised and all entry–exit restrictions on and bureaucratic hurdles faced by schools and colleges should be abolished." (p. 22).

This approach is warmly to be encouraged. Some of the regulations which presumably would need to be examined in this context include the prohibition of the 'commercialisation' of education, the Unni Krishnan Supreme Court judgement (see Reddi, 1993).

Why is the commercialisation such an important issue? The key point is that it could ensure that much needed investment is attracted into education—for the best way of doing this would be to allow a standard business structure, to ensure that investors can get a suitable return on their investment. At the present time, many education companies simply ignore the Unni Krishnan judgement, and use a variety of means, to ensure that profits are siphoned away from the educational societies where legally they should remain. One view might be that such a situation could simply continue—we should let 'sleeping dogs lie'—until such time as another Supreme Court judgement rules differently. However, this is not totally satisfactory, because it will discourage investment in private education—particularly from overseas—and can encourage further corruption from officials who need to be persuaded to turn a blind eye to the law, as well as encouraging waste and inefficiency. Instead, other ways need to be found of circumventing its conclusions.

The Unni Krishnan judgement is Case Law, made at the Supreme Court level, so it may not be desirable for Parliament to seek to circumvent the decision formally. However, Case Law can evolve—indeed, the Unni Krishnan judgement apparently overturned part of the judgement of an earlier Supreme Court decision—so it is acceptable to look to the interpretation of the decision to see if this really captures what was intended, or whether the currently-accepted interpretation is correct in all its details. With an evolving understanding of the situation, further Case Law could be established which created a more congenial atmosphere for private education.

With this in mind, it would seem that two parts of the Supreme Court's reasoning seem to beg for an alternative interpretation than that currently held. First, the court made several comments along the lines that the "business of education" was not part of Indian society: 'Education has never been commerce in this country. Making it one is opposed to the ethos, tradition and sensibilities of this nation.'

There were also comments concerning the dangers of commercialisation, such as: 'Both in the light of our tradition and from the standpoint of interest of general public, commercialisation is positively harmful, it is opposed to public policy.'

Statements such as these could be fruitfully examined in the light of the activities of successful businesses such as NIIT and Aptech (see Tooley, 1999). These certainly are commercial companies, and it is hard to question that their business is, in large part, education. So they seem to show that, in point of fact, there is a very fine Indian ethos and tradition of the 'business of education', or 'the education industry'. Moreover, their highly positive impact on the Indian balance of payments and economic development in crucially important growth areas could be used to show that the Supreme Court could not possibly have in mind that sort of activity in the comment that "commercialisation is positively harmful".

Given this discussion, we would need to ask what sort of activity the Supreme Court did have in mind, arriving at a more limited interpretation of the judgement than is currently the case (interpretations which could then, in due course, be tested in law, leading to the evolution of the Case Law). For consistent with the judgement, and bearing in mind the above comments, is the distinction between

- 'Imparting education' and
- 'The organisation of educational delivery', or 'the delivery of educational opportunities' (see Tooley, 2000).

With this distinction clear, it could be agreed that the former be considered a 'vocation', a 'religious duty' or 'charitable activity', along the lines of the Supreme Court judgement. But this then does not rule out that the 'organisation of educational delivery' could very usefully be considered as a business activity, enabling those concerned with their vocation to better serve their public. Having this interpretation to hand would appear fully consistent with the current judgement, showing its rather more limited applicability than on first appearance. An even easier route to showing the limits of the judgement would be to make a three-fold distinction between

- 'Imparting education'
- 'The organisation of educational delivery', and
- 'Investing in education'.

Even if the first two fall under the judgement of the Supreme Court, presumably the third will not. It would be perfectly consistent to allow that each school or educational institution should be a not-for-profit institution, and also to allow each to have an Education Investment Company connected

with it, which is run as a business, for profit. This would not be engaged directly with education, but rather with investment and development, so would not fall under the strictures of the judgement.

Finally, we can note in any case that, in practice, the judgement need not have quite the inhibiting impact that is supposed by many. For there is nothing to stop organisations setting up for-profit corporate entities for the delivery of educational opportunities without seeking recognition or affiliation, as NIIT and Aptech have done. Such organisations could create their own 'brand-name' qualifications, offer examinations from overseas or already-established Indian commercial bodies, or ask students to take the state or central government examinations at another, recognised or affiliated institution. However, this said, it would be presumably more desirable if such education companies could be acknowledged to be working within the framework of the law rather than outside of it, so a preferred route would be to seek a reinterpretation of the Unni Krishnan judgement.

SUGGESTION 2: EDUCATION QUALITY ZONES (EQZS)

The Indian government has already created EPZs—Economic Priority Zones—to harness entrepreneurship and innovation across a variety of sectors in the economy. With this in mind, how about developing similar in education?—let's call them Education Quality Zones (EQZs)! These could act as valuable testing grounds for educational innovation. The key function would be to create geographical areas where rules and regulations concerning education could be relaxed—perhaps as a prelude to being relaxed more widely, if the experiment proved successful—and innovations concerning the role of the private sector could be introduced. Such zones could also utilise government tax concessions and land and infrastructure grants, where appropriate. These zones are most likely to be nominated in areas where government has not been able to cater for educational demand, or its schools are of too poor a quality. Such an area is likely to be a poor rural area or urban slum. Here private education companies could be encouraged to take over the management of failing government schools—either through outright sale or long-term leases, or a management contractual basis. Vouchers or learning accounts could also be given to the poorest parents, to allow funds to follow students to the schools where parents most desire them to attend.

Such zones could also be used to attract grants and philanthropy.

Such an innovation would seem to fit in neatly with discussions being held in the central and state governments. Again, the Recommendations of the Prime Minister's Economic Advisory Council (2001) report notes that it might be desirable to give "every child, in the relevant age group, a voucher of a specified sum and the freedom to select a school", (p. 22), and such vouchers would be an obvious vehicle to first trial in the EQZs, before moving on to the national level. There is a wealth of international experience which could be used in the development of these zones, from the Education Action Zones, City Academies and privatisation of failing local education authorities in England and Wales, to the experience of Charter schools and contracting out by school districts in the USA. Such zones could also become an obvious vehicle for investment from international agencies too.

TOWARDS LIBERATING THE ENTERPRISE OF EDUCATION

Education in India seems poised at a crossroads. There is much that is to be admired here. In particular, the spirit of educational enterprise and self-help—found amongst the poorest communities in the slums and villages as much as in the giant education companies leading the global information technology revolution—lead me to believe that in England we have much to learn from your expertise here. And the evidence gained of the way private education for the poor operates also strengthens the conclusion that it is not government intervention that is needed for equality of educational opportunity, but in fact a nurturing of the private education sector.

However, on the other hand, government regulation threatens to dampen the spirit of enterprise that is so evident and so valuable. Regulation impinges at all levels, and because of its all-pervasiveness and pernickety detail, it leaves open the way to corruption and bribery. The most disturbing feature is that those in elite institutions can simply ignore regulations that they don't like: it is those serving the poor who are most affected by them.

The crossroads has been reached, but the way is open to reform the regulatory environment to allow a flourishing and continuing revitalisation of education, to the benefit of all in India. My reading of the runes is that the spirit of enterprise will survive, and educational entrepreneurs go from strength to strength. And if I am right, then the rest of the world will be wanting to learn from India in the coming decades.

REFERENCES

Jimenez, Emmanuel, Lockheed, Marlaine E., and Paqueo, Vicente, (1991) 'The Relative Efficiency of Private and Public Schools in Developing Countries', *World Bank Research Observer*, Vol. 6, no. 2 (July), pp. 205–218.

Jimenez, Emmanuel, Lockheed, Marlaine, Wattanawaha, Nongnuch, (1988) 'The Relative Efficency of Private and Public Schools: the Case of Thailand', *The World Bank Economic Review*, Vol. 2, no. 2, pp. 139–164.

Kingdon, Geeta (1996a) 'The quality and efficiency of private and public education: a case study of urban India', *Oxford Bulletin of Economics and Statistics*, 58.1.

Kingdon, Geeta (1996b) *Private schooling in India: Size, Nature and Equity-effects*, LSE, Development Economics Programme.

Larrañaga, Oswaldo, (1997) 'Chile: A Hybrid Approach', in Zuckerman, Elaine and de Kadt, Emanuel (eds*) The Public-private Mix in Social Services: Health care and education in Chile, Costa Rica and Venezuela*, Washington DC: Inter-American Development Bank.

The PROBE Team, (1999) *Public Report on Basic Education in India*, Oxford, Oxford University Press.

Reddi, Padala Rama (1993) 'Unnikrishnan vs. State of A.P'., 1993, in *The Andhra Pradesh Education Code*, Hyderabad, pp. 399–400.

Seville, Adrian and Tooley, James (1997) *The Debate on Higher Education: Challenging the Assumptions*, London, Institute of Economic Affairs.

Shah, Parth, J. (1998) 'The Full-truth in Professor Sen's Half Truth', *Business Standard*, January 3rd

Tooley, James (1995) *Disestablishing the School*, Avebury, Basingstoke

Tooley, James (1999) *The Global Education Industry*, London, IEA/IFC

Tooley, James (2000a) *Reclaiming Education*, London, Continuum/Cassell

Tooley, James (2000b) ‘Investment opportunities in private education in Andhra Pradesh: A survey of the regulatory and investment climate’, Confidential Report, International Finance Corporation, Washington DC, available on IFC e-DOCS

Tooley, James (2000c) ‘The Private Sector Serving the Educational Needs of the Poor: A case study from India, with policy recommendations’, Paper for the Public-Private Partnerships in Education Program, Asian Development Bank Institute, Tokyo 29 May–7 June 2000.